

SENATE BILL 158

By Fowler

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 67, relative to informal taxpayer conferences.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-1-1801(c), is amended by deleting subdivision (3) in its entirety and by substituting instead the following:

(3) During the period of running of the ninety-day period for filing suit as provided in subdivision (b)(1), and before suit is filed, the taxpayer shall have the right to an informal hearing to discuss the assessment and to present such matters as may be relevant thereto; provided, that written request for such hearing is made within thirty (30) days from the date of the notice of assessment. The informal hearing shall be conducted by an administrative judge or hearing officer from the administrative procedures division of the office of the secretary of state. If a timely request for a hearing is made to the administrative procedures division, the administrative judge or hearing officer assigned to the matter shall set a time and place for the hearing within twenty (20) days from the date of the request, and shall give the taxpayer and the commissioner written notice of the hearing. Within ten (10) days after the hearing, the administrative judge or hearing officer shall give the taxpayer and the commissioner written notification of the administrative judge's or hearing officer's decision. Upon the filing of a timely request for a hearing, the ninety-day period for the filing of suit challenging a tax assessment and the ninety-day period for stay of collection activity as provided in subdivision (a)(1)(B) shall cease running until an informal hearing decision is issued. No other provision of this section, nor any other action or inaction by the taxpayer or the commissioner shall be construed to extend or toll the running of the

ninety-day period for filing suit, nor shall the taxpayer be prejudiced in any other manner by either seeking or failing to seek or pursue an informal hearing. The informal hearing provided in this subdivision (c)(3) shall not be considered to be an administrative remedy and shall not constitute a contested case subject to the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The commissioner shall not be prejudiced in any manner if the administrative procedures division fails to act within the time periods prescribed herein, except that no interest shall accrue on any deficiency during any period in which the administrative procedures division has not acted within the time limits prescribed in this section, until the earlier of such time as suit is filed by the taxpayer or the ninety-day period for filing suit has expired. At any time prior to the filing of suit by the taxpayer, the commissioner, in the commissioner's discretion, may request that an informal hearing with the taxpayer be conducted by the administrative procedures division. Upon request by the commissioner for an informal hearing with the taxpayer, the administrative procedures division shall assign an administrative judge or hearing officer to conduct the hearing who shall set a time and place for the hearing within twenty (20) days from the date of the request, and shall give the taxpayer and the commissioner written notice of the hearing. The decision of the administrative judge or hearing officer shall be final and binding on both parties, unless the taxpayer files suit under subsection (a), a petition for review of the decision of the administrative judge or hearing officer is filed in chancery court pursuant to § 4-5-322, or the parties reach agreement and settle the case in a manner other than that determined by the administrative judge or hearing officer. Any such settlement shall be in writing. At any time prior to the filing of suit by the taxpayer, the commissioner, in the commissioner's discretion, may hold meetings or informal conferences with the taxpayer without the requirement of a written request for the conference.

SECTION 2. Tennessee Code Annotated, Section 67-1-110(16), is amended by deleting the words "before an impartial hearing officer from the department" and substituting instead the words "before an impartial administrative judge or hearing officer from the administrative procedures division of the office of the secretary of state".

SECTION 3. The secretary of state is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 4. This act shall take effect July 1, 2005, the public welfare requiring it.